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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/074,496 05/07/98 ALBRITTON

J 091078.0554

EXAMINER

PM82/1022

KIM, H

ART UNIT

PAPER NUMBER

3629

27

DATE MAILED:

10/22/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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Office Action Summary

Application No. 09/074,496	Applicant(s) Albritton
Examiner Harry C. Kim	Art Unit 3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on Jul 17, 2001
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.
- Disposition of Claims
- 4) Claim(s) 1-27, 29, 31-33, and 36-39 is/are pending in the application.
- 4a) Of the above, claim(s) 1-4, 13-23, 29, and 31 is/are withdrawn from consideration.
- 5) Claim(s) 5-12, 24-27, 32, 33, 36, and 39 is/are allowed.
- 6) Claim(s) 37 is/are rejected.
- 7) Claim(s) 38 is/are objected to.
- 8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) All b) Some* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) Notice of References Cited (PTO-892) 18) Interview Summary (PTO-413) Paper No(s). _____
- 16) Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) Notice of Informal Patent Application (PTO-152)
- 17) Information Disclosure Statement(s) (PTO-1449) Paper No(s). ?4 & 26 20) Other: _____

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DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed on 6/11/01 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance for **LU-41,444** and **DE-1,534,526**, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 37 is rejected under 35 U.S.C. § 102(b) as being anticipated by UK Patent 2,023,695 (cited by the applicant on IDS filed on 6/11/01). The UK Patent 2,023,695 discloses all of the claimed structural limitations of a breakaway guardrail post for highway crash control system (see Fig. 4) comprising an upper post member 6 having a weak impact axis and a strong impact axis, a lower post member 4 disposed beneath and spaced apart from the upper post member 6, and a connecting joint member (see Fig. 2) having a first end 2 connected to the upper post member 6 with a first fastener 9 and a second end 1 connected to the lower post member 4 by an attachment (p. 1,

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lines 74-78). Further, the first fastener 9 has a first failure strength which is less than a second failure strength of the attachment (p. 1, lines 111-120).

Allowable Subject Matter

Claims 5-12, 24-27, 32-33, 36, and 39 are allowable over the prior art of record.

Claim 38 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

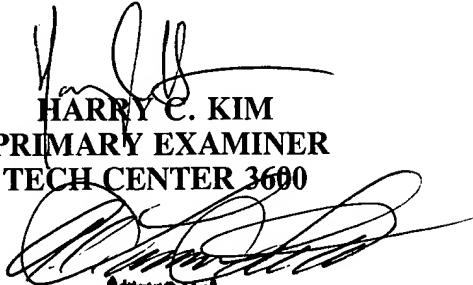
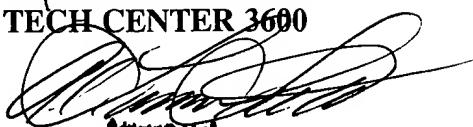
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Harry C. Kim whose telephone number is (703) 308-2248. The examiner can normally be reached on Mon.-Fri. from 5:30 AM to 3:30 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne, can be reached on (703) 308-1159. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

HCK
October 16, 2001


HARRY C. KIM
PRIMARY EXAMINER
TECH CENTER 3600

Approved
A.J. Lawrence Smith
Director, Group 3600